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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINISAR CORPORATION, a Delaware
corporation,

Plaintiff,

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION, a national banking
association, not in its individual capacity,
but solely in its capacity as Indenture
Trustee in behalf of all Holders of Finisar
Corporation's 5¼% Convertible
Subordinated Notes due 2008, 2½%
Convertible Senior Subordinated Notes due
2010, and 2½% Convertible Subordinated
Notes due 2010; and DOES 1 through 10,
inclusive,

Defendants

AND RELATED COUNTERCLAIMS.

Case No. 5:07-CV-04052-JF (PVT)

**[Proposed] ORDER GRANTING
PLAINTIFF FINISAR CORPORATION'S
MOTION FOR MONETARY
DISCOVERY SANCTIONS**

Date: **Friday, June 17, 2008**
Time: **10:00 a.m.**
Courtroom: **5 (Magistrate Judge Trumbull)**

District Judge: Hon. Jeremy Fogel
Magistrate Judge: Hon. Patricia V. Trumbull

Complaint Filed: June 22, 2007
Trial Date Set: None Yet

1 Plaintiff Finisar Corporation's Motion for Monetary Discovery Sanctions was filed in the
 2 above-captioned action (the "Action") on May 13, 2008 and heard on June 17, 2008. The Court,
 3 having considered the written and oral submissions of the parties in connection with the Motion,
 4 and good cause appearing therefor, GRANTS the Motion, and finds and orders as follows:

5 FINDINGS:

6 1. The refusal of defendant U.S. Bank Trust National Association ("U.S. Bank") to
 7 produce in discovery communications between U.S. Bank and/or its counsel, on the one hand,
 8 and the holders of notes issued by plaintiff Finisar Corporation ("Finisar") under the trust
 9 indentures dated October 15, 2001, October 15, 2003, and October 12, 2006 (the "Indentures") at
 10 issue in the Action, on the other hand, was not substantially justified.

11 ORDER:

12 1. Within ten (10) days of the date hereof, U.S. Bank shall pay to Finisar \$7,310.00;
 13 and

14 2. Within twenty (20) days of being invoiced therefor, U.S. Bank shall pay to Finisar
 15 (a) the attorney's fees incurred by Finisar in connection with any further deposition of Ms. Jacobs
 16 conducted pursuant to the Order Granting Plaintiff Finisar Corporation's Motion: (1) To Compel
 17 Production of Documents; (2) To Compel Deposition Testimony; and (3) For Additional Time to
 18 Complete Deposition (the "Order Granting Motion to Compel"), and (b) all out-of-pocket
 19 expenses (including by way of illustration but not limitation reporter's fees, and travel and
 20 lodging expenses incurred by Finisar's counsel) incurred by Finisar in connection with any
 21 further deposition of Ms. Jacobs conducted pursuant to the Order Granting Motion to Compel.

22
 23 DATED: _____

 24 Hon. Patricia V. Trumbull
 25 Magistrate Judge
 26
 27
 28

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:
D. Anthony Rodriguez, drodriguez@mofo.com; Abby E. Wilkinson, awilkinson@faegre.com; Eva K. Schueller, eschueller@mofo.com; Michael B. Fisco, mfisco@faegre.com; Edward T. Wahl, ewahl@faegre.com and Paul T. Friedman, pfriedman@mofo.com.

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